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Trump and the Retreat from Human Rights

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It has not taken long for Donald Trump's presidency to radically upend the view that US foreign policy should always be on the side of human rights, if not in deeds at least in words. Setting the tone, Trump's dark and uninspiring inaugural address in January 2017 made no mention of America's support for the global struggle for democracy, freedom, and human rights, as has been customary in most inaugural speeches by both Democratic and Republican presidents.

“It is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world,” declared George W. Bush during his 2005 inaugural address. Four years later, in one of the loftiest inaugural speeches in memory, Barack Obama pledged: “We will support democracy from Asia to Africa, from the Americas to the Middle East, because our interests and our conscience compel us to act on behalf of those who long for freedom.”

Trump's State Department, under the leadership of Rex Tillerson, a former Exxon Mobil chief executive, has shown a breathtaking disregard for human rights. “In some circumstances if you condition our national security efforts on someone adopting your values, we probably can't achieve our national security goals,” Tillerson told department staff in May. Even members of Trump's own party took issue with such a brazen positioning of interests ahead of values. In a *New York Times* opinion piece, Senator John McCain of Arizona wrote that Tillerson had “sent a message to oppressed people everywhere: Don't look to the United States for hope.”

Tillerson's actions back up his words. He has accepted a White House recommendation that

the State Department's budget be slashed by almost 30 percent, with many of the cuts coming from programs that promote democracy, the rule of law, and human rights. He also raised eyebrows by skipping the presentation ceremony for the State Department's annual human rights report in March. Going back to the late 1970s, all previous secretaries of state had presided over the ceremony. Explaining Tillerson's absence, a State Department spokesperson said he “did not need to be there because the facts in this report speak for themselves.”

Shunning human rights organizations is another clear expression of the Trump administration's disdain for the cause. There was no US representation at the March meeting of the Inter-American Commission on Human Rights, which focused on how US foreign policy is affecting asylum and immigration policy across the Americas. This commission has traditionally served as the principal venue for the United States to press Latin American nations to observe human rights norms and practices. Almost simultaneously, the Trump administration threatened to boycott the proceedings of the United Nations Human Rights Council, which the administration has labeled “corrupt” and hostile to Israel.

EMBRACING DESPOTS

Most remarkable, however, is Trump's unabashed embrace of some of the world's most notorious human rights abusers. He has expressed admiration for Russian President Vladimir Putin, despite Putin's reputation as a ruthless despot. Trump has praised Egypt's president, Abdel Fattah el-Sisi, for doing “a fantastic job in a difficult situation,” a bizarre characterization of someone accused by the State Department of overseeing “unlawful killings and torture,” as well as “enforced disappearances” of political dissidents and many other violations of civil and political liberties.

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The first foreign country that Trump visited as president was Saudi Arabia, one of the world's most repressive states. While there, Trump broke precedent by not bringing up the kingdom's poor human rights record. He made a point of that omission in his speech to the Saudis, saying, "We are not here to tell other people how to live."

Trump has also praised Philippine President Rodrigo Duterte for doing "an unbelievable job on the drug problem." According to the State Department, Duterte is responsible for an extrajudicial war on drugs that has left some 7,000 people dead since he took office in June 2016. In taking ownership of this killing campaign, Duterte has said he would like to "slaughter" drug dealers "just as Hitler killed Jews during the Holocaust."

The human rights community's response to Trump's words and actions has been swift and severe. Human Rights Watch's 2017 World Report warned that Trump's policies threatened to "reverse the accomplishments of the modern human rights movement." Amnesty International marked Trump's first 100 days in office with a list of 100 ways in which the administration undermines human rights and democracy, from failing to note the poor records of visiting foreign leaders to immigration bans to the president's avowed enthusiasm for torture.

NIXONIAN REALISM

There is no shortage of good explanations for Trump's retreat from human rights. It clearly mirrors his political proclivities, which appear to be more autocratic than democratic. He campaigned as a "law and order" candidate, praising the virtues of the police while demeaning protest movements such as Black Lives Matter and undocumented Mexican immigrants (whom he famously branded as "rapists"). He suggested that as president he could order US soldiers to torture suspected terrorists. He also said he would order the killing of terrorists' families.

As president, Trump has displayed every indication that if left to his own devices, he would disregard civil and political rights. Among his first executive actions was a ban of questionable constitutionality on most immigration from several predominantly Muslim nations. He has bashed the media as "the enemy of the people," threatened government whistle-blowers with imprisonment, and fired the nation's top law-enforcement official, Federal Bureau of Investigation Director James

Comey—the kind of behavior usually associated with a banana republic despot.

Another plausible explanation for this retreat from human rights is that "Trumpism" signals a resurgence of realism in US foreign policy to a degree not seen since Richard Nixon's hard-edged *realpolitik*. Outlined in 1970 at the peak of the Vietnam War, the so-called Nixon Doctrine asserted that "the United States will participate in the defense and development of allies and friends, but that America cannot—and will not—conceive all the plans, design all the programs, execute all the decisions, and undertake all the defense of the free nations of the world."

In essence, the doctrine upheld the national interest as the only criterion for determining US intervention in the affairs of other countries. Especially across the developing world, this doctrine led the United States to embrace the heartless logic that a right-wing regime, no matter how brutal, was preferable to a left-wing regime of any kind.

Tellingly, Trump brought Henry Kissinger on board as an informal adviser to his administration. Often referred to as the high priest of realism, Kissinger was the main architect of Nixon's foreign policy, first as his national security adviser and later as secretary of state. For Kissinger, promoting human rights and democracy was at best a second-tier concern in US foreign policy, and at worst a hindrance to advancing the national interest.

The realist narrative is further supported by Trump's view of international relations as "transactional" in nature, an approach he appears to have carried over from decades of deal-making in New York's real-estate world. Under Trump, human rights are just a tool at his disposal when dealing with international players. He seems willing to give a pass on abuses by some leaders, such as Egypt's Sisi and China's Xi Jinping, in exchange for something concrete—cooperation in fighting terrorism, in Sisi's case, and help from Xi on deterring North Korea. By contrast, countries deemed enemies, such as Iran, Syria, and even Venezuela, are roundly criticized for their human rights records.

NEVER AGAIN?

A less apparent and arguably more persuasive explanation for Trump's stance is that it is part of a broader crisis of human rights that has been gaining steam for some time. Despite a storied history, the human rights movement (understood as including both activists and institutions) has not

fared well in the twenty-first century. A string of critiques has appeared in recent years with such ominous titles as *The Twilight of Human Rights*, *The Endtimes of Human Rights*, and “Welcome to the Post-Human Rights World.” They depict a movement that is not just under duress but possibly on the brink of collapse.

The crisis of human rights is part and parcel of the travails afflicting the liberal international order in place since the end of World War II. In recent decades, this liberal order has been under tremendous stress. Above all, perhaps, it has been severely tested by the rise in international influence of non-Western powers, most notably China, whose cultural values and political experiences diverge significantly from those of the major Western powers. The West has also failed to bring Russia into its liberal order, and the US-led attempt to transform the Middle East has spectacularly backfired, emboldening radical Islamists. More recently, the threat has come from within the West itself in the form of a populist, nationalist backlash against institutions such as the United Nations and the European Union as well as some of the policies associated with them, such as multiculturalism, international trade, open borders, and the promotion of human rights.

Trump is hardly alone among Western politicians in flaunting an open disregard for human rights; this has become a hallmark of politicians in many Western democracies. Prime Minister Theresa May has suggested that Britain should leave the European Convention on Human Rights as it exits from the European Union. This would entail abrogating the Human Rights Act, enacted by the Labour Party government in 1998, which makes rulings by British public bodies unlawful if they contradict the convention.

Hungary’s Prime Minister Viktor Orbán has boasted that he is taking his country down the path of “illiberal democracy,” restricting political and civil freedoms and praising the governments of China, Turkey, and Russia as good examples. Poland’s Jarosław Kaczyński has all but declared war on democracy, human rights, and the rule of law. France’s failed far-right presidential candidate Marine Le Pen ran a Trump-like campaign in 2017, heavy on nativism, nationalism, and contempt for multilateral organizations like the EU. In the Netherlands, Geert Wilders, another failed

candidate for national leadership, campaigned on a manifesto that called for closing down mosques and banning immigrants from Muslim countries.

But the human rights crisis anticipated the crisis of the liberal international order, and is to some extent self-inflicted. To be sure, the language of human rights has enabled some of the most stirring moments in history—such as ordinary people seeking justice against tyrannical regimes in countries as diverse as Argentina and South Africa. Some scholars, such as Harvard’s Kathryn Sikkink, regard human rights as one of humankind’s biggest achievements. Studies such as *The Liberal Project and Human Rights*, by John Charvet and Elisa Kaczynska-Nay, have argued that human rights are critical to the liberal vision of world politics that emerged after World War II. Nonetheless, the movement’s performance since the launch of the 1948 Universal Declaration of Human Rights (UDHR) has left much to be desired.

Despite the consolidation of a global discourse about the virtues of human rights and the rise of a massive regime to monitor compliance, those advances have failed to immunize the world against even the worst kinds of abuses. It was the Holocaust that prompted the UDHR, whose main purpose was eradicating genocide. “Never Again” were the famous words uttered by the framers of the UDHR to express their confidence that what was deemed “the crime of crimes” had been relegated to the ash heap of history. Yet genocide has taken the lives of millions of people in the postwar era, in places as diverse as Guatemala, the former Yugoslavia, Iraq, Sudan, and Rwanda, to name but the most obvious cases.

Human rights goals that are seemingly more attainable than eradicating genocide have also proved elusive. Critics have pointed out that many governments, even those that have signed international covenants, violate human rights with impunity. A finer-grained view of the failure of human rights can be found in the political scientist Emilie Hafner-Burton’s book *Making Human Rights a Reality*, which notes the great paradox that since the 1970s, the rise in the number of signatories to global human rights treaties has coincided with a rise in the number of abuses in most major categories, from murder to torture, and from censorship and suppression of workers’ rights to other violations of political and civil rights.

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A notable exception is political disappearances, which have decreased significantly since democratization spread through Latin America, a region that endured a massive epidemic of disappearances in the 1970s and '80s. This “success,” however, is marred by the widespread violence that pervades life in the region. Countries like Brazil, Honduras, and Guatemala have murder rates that are far higher than in war-torn nations like Iraq and Afghanistan. Many of these deaths are the consequence of extrajudicial killings by public authorities.

INCONSISTENT COMMITMENT

Undermining the effectiveness of human rights is the lack of consistent support by major Western powers as they seek to balance idealism against the national interest—a point underscored by accounts of the rise of the movement, such as Samuel Moyn's *The Last Utopia: Human Rights in History*. The United States, Britain, and France were among the main architects of the UDHR. Yet for almost two decades after it went into effect, the United States did little to dismantle systemic racism in American society, while the British and the French carried on with their colonial empires as if nothing had changed. It was not until the late 1970s that US foreign policy, under the Carter administration, took human rights seriously.

Jimmy Carter was especially disturbed by the human rights disaster that Nixon's realpolitik created in Chile. Nixon and Kissinger enabled General Augusto Pinochet's 1973 military coup against President Salvador Allende, who, at the peak of the Cold War, had managed to get elected as Latin America's first Marxist president. Among other things, the Nixon administration imposed an “invisible blockade” on the Allende government designed to, as Nixon ordered the Central Intelligence Agency, “make the economy scream.” Pinochet's reign of terror, which lasted until 1990, claimed the lives of thousands of Chileans.

In keeping with a robust agenda of liberal internationalism, the Carter administration created the State Department's Bureau of Human Rights and Humanitarian Affairs in 1977 (it was later renamed the Bureau of Democracy, Human Rights, and Labor). At the time, it was the biggest commitment by the United States to the global promotion of democracy and human rights. Aside from publishing an annual report on the state of human rights around the world, the bureau supports the work of many nongovernmental rights organiza-

tions. But even this historic commitment has not delivered consistent US support for human rights.

Carter rebuked the military juntas of Argentina, Brazil, Uruguay, and Chile for their extrajudicial “dirty wars” against political dissidents, but he downplayed the human rights abuses of other right-wing regimes, such as South Korea's. Ronald Reagan criticized the Soviet Union for its lack of respect for basic freedoms while allying himself with thuggish regimes in Central America known for their human rights atrocities, including the infamous 1981 massacre at El Mozote, a village in El Salvador where a US-trained battalion of the Salvadoran army killed as many as 800 civilians.

George W. Bush's 2003 occupation of Iraq, ostensibly undertaken to transform the country into “a beacon of democracy” in the Middle East, became notorious instead for its rampant human rights abuses. In particular, Bush's embrace of torture was a direct attack on human rights. As the legal scholar Eric Posner noted, “The prohibition of torture is at the core of the human rights regime; if that right is less than absolute, then surely other rights are as well.”

Obama decried the abuses of the Bush administration, including torture and detentions without trial. But he pointedly decided against prosecuting former officials who had been involved in those policies. To his credit, Obama did authorize the release of the so-called torture memos that provided the Bush administration's legal justification for the use of interrogation methods such as waterboarding in the war on terror. Members of the intelligence community and leading members of the US Congress vehemently opposed this decision.

Obama also appointed as his UN ambassador Samantha Power, the author of *A Problem from Hell*, a book about how the United States has bungled its responses to genocide. Hillary Clinton, as Obama's secretary of state, vastly expanded the State Department's human rights work, especially in the area of gay and transgender rights. That work, however, has been tainted by accusations of “pink-washing,” or the promotion of these LGBT rights for the purpose of distracting from unsavory policies, such as the increasing use of drone attacks on Obama's watch, or his failure to intervene in Syria to prevent a humanitarian disaster.

MORE IS LESS

Another factor that limits the effectiveness of human rights is a lack of meaningful mechanisms for obtaining compliance. A common criticism

of the UDHR is that members of the international community embraced it more as a symbolic act to mark the horrors of the Holocaust than as an actual commitment to protect human rights in their own countries. Contrary to public perceptions, the UDHR is not a treaty; that would have required ratification by individual countries' governments. Instead, it is an aspirational statement signed by the member states of the UN General Assembly that sets standards for how nations should conduct themselves.

It is left to each individual state whether to incorporate those standards in its own laws. In the case of the United States, despite having taken the lead in drafting the UDHR—Eleanor Roosevelt was the first chairperson of the UN Human Rights Commission—it lags behind other Western nations in making human rights part of its domestic legal framework. The US embrace of the UDHR, as noted by the American Civil Liberties Union, “has been partial and selective.”

More problematic, perhaps, is the ambiguity that ensues from increasingly expansive definitions of human rights. The drafters of the UDHR conceived of human rights as something of a grab bag of aspirational goals. First to be included were the civil and political rights at the core of liberalism, such as freedom of assembly and of religion, and the right not to be tortured or subjected to discrimination on the basis of race, sex, or ethnicity. These rights were codified in the International Covenant on Civil and Political Rights, enacted by the UN in 1966.

Civil and political rights were followed by social and economic rights, including the rights to employment, health care, housing, and even leisure—a reflection of the global spread of socialist ideals after World War II. In more recent years, the concept of human rights has broadened to include a “third generation” of rights—also referred to as “solidarity” rights—like the freedom of sexuality and the right to a clean environment.

The Freedom Rights Project, an organization that aims to raise the quality of the rights discourse, has tracked the “proliferation of human rights” over the decades. By its count, the UDHR lists some 30 rights, whereas the current body of international human rights law includes 64 conventions and protocols, and some 1,300 provisions

at the European and UN levels. Such an expansive menu tends to undermine the human rights movement in a variety of ways. For one thing, by supporting virtually everything, human rights run the risk of standing for nothing.

Moreover, some human rights, such as those of a social and economic nature, are virtually unenforceable, since the ability of nations to provide economically for their citizens is not strictly under their control. And it does not help that the economic policies of wealthy nations, the ones most likely to promote human rights, often stand in the way of social and economic progress among poorer nations. Also, many human rights tend to work at cross-purposes with each other. Environmental human rights claims and the restrictions they place on development can limit the capacity of nations to fulfill their social and economic commitments.

Third-generation human rights, especially those pertaining to sexuality, generally challenge strongly held cultural norms in many parts of the non-Western world, such as Africa and the Middle East.

This leads to the charge that human rights are essentially a Western creation, and worse, a project of Western neo-colonialism. Such criticism has intensified in recent years as Western nations

have begun to push LGBT rights as part of the human rights regime. In June 2011, the UN Human Rights Council approved a resolution calling for an end to violence and discrimination against LGBT people. This was a first for a UN agency.

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CIVILIZING PROCESS

Human rights activists take comfort in the fact that Trump has proved to be one of the least popular US presidents, at home and abroad. Protests against his policies have raised hopes for renewed support for human rights across the globe. But a backlash against Trump's behavior will not solve the crisis of human rights; in my view, only a rebooting of the movement can accomplish this.

Numerous reform proposals have been offered over the years. Within the UN system, reforms have traditionally emphasized improving the effectiveness of compliance mechanisms, most recently in 2006 with the creation of the UN Human Rights Council, comprising 47 UN member states. It replaced the 53-member UN Human Rights Commission, which was widely criticized for having

among its members notorious rights abusers, such as Cuba, Libya, and Zimbabwe. The new body is tasked with a “universal periodic review” of every country’s human rights record. It also grants the UN greater latitude to sanction “systemic” abusers. External observers, however, by and large tend to dismiss these reforms as little more than cosmetic changes.

Outside the UN, the most discussed reform proposal is a call for focusing on so-called core human rights—especially freedom of speech, the right of association, and the banning of torture. The logic behind this proposal, pushed by the likes of the Freedom Rights Project, is that a pared-down approach harkening back to the roots of human rights in classical liberalism could facilitate a deeper international commitment. But reaching a consensus on core values within the notoriously fractious human rights community is unlikely. The proposal upsets those who envision rights as a “living tree,” or as something that is always evolving. It is also opposed by some of the most energetic (and successful) members of the community, such as the LGBT movement and the environmental movement.

History shows, however, that the most effective reform is for individual countries to take deliberate action to enshrine human rights principles in domestic civil rights laws. This approach promises multiple, mutually reinforcing benefits.

Firstly, it enhances the domestic legitimacy of human rights principles as countries take ownership of these principles and integrate them into the fabric of their national legal systems. Moreover, it transfers the burden of compliance with human rights away from external or international bodies, such as the Inter-American Commission on Human Rights, the European Court of Human Rights, and the International Criminal Court (ICC), and toward domestic courts.

Finally, turning human rights into civil rights reduces the pervasiveness of claims that human rights are a “foreign idea” or a Western invention that nations like the United States and Britain use to punish non-Western or developing countries. The Chinese government routinely criticizes the West for trying to impose its values on Chi-

na while failing to recognize China’s success in meeting the “basic needs” of its people. In recent years, several African nations have withdrawn from the ICC, accusing the organization of being a Western tool for bashing Africa. Many Muslim-majority nations have characterized American and European efforts to promote LGBT rights as a form of “cultural imperialism.”

Canada and Argentina provide two models of how human rights can be converted into civil rights. The Canadian Charter of Rights and Freedoms, introduced in 1982, enshrines the core components of the UDHR in Canada’s constitution. In Argentina, the entirety of the UDHR was given the weight of constitutional law in 1994. The intention of this radical move was to prevent a repeat of the atrocities of the “dirty war” conducted by the country’s military rulers against political opponents from 1976 to 1983, which human rights activists claim resulted in the disappearance of 30,000 people; the official tally of 10,000, recorded by the National Commission on the Disappeared, is shocking enough.

Militating against the project of making human rights civil rights is the reality that most of the world’s nations, including the United States, benefit from carrying on with business as usual. It is convenient for them to cherry-pick the human rights they like and disregard those they do not; to condemn other countries for failing to adhere to international standards while overlooking their own shortcomings.

Finding a way to break from business as usual is vital to restoring the vitality of the human rights movement and to addressing the current travails of the liberal international order. Much of the skepticism surrounding the postwar order results from the apparent failure of the human rights movement to deliver on its many promises, from eradicating genocide to curbing more recent scourges such as human trafficking. Such failures allow the likes of Trump to dismiss the promotion of human rights at the global level as, at best, an inconvenience, or even as contrary to national interests. Indeed, it is hard to imagine the liberal international order surviving without a thriving human rights movement. ■